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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,008	03/25/2004	Bryan L. Dalton	LM(F)6495 NP	7833
26294 7590 07/12/2007 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114			EXAMINER NGUYEN, PHILLIP H	
			ART UNIT 2191	PAPER NUMBER
			MAIL DATE 07/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/809,008

Applicant(s)

DALTON ET AL.

Examiner

Phillip H. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 4/10/2007. Claims 1, 11, 12, 14 and 15 have been amended. Claims 1-20 remain pending and have been considered below.

Claim Objections

2. The amendment filed on 4/10/2007 overcomes the objection to claims 1-3, 6-7, 9, 11, 12 and 15-20 of previous action. Therefore, the objection is withdrawn.

Response to Arguments

3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Note

4. Regarding to claims that contains the word "for" in the preamble and the body of the claims. It indicates intended use and as such does not carry any patentable weight. The limitations following the word "for" describes only intended use but not necessarily required functionality of the claim. Applicant is required to amend the claims so that the claim limitations are recited in a definite form. For example, claim 1 recites "a software application for use..." should be changed to "a software application using..." or any other format to avoid intended use in the claimed limitations.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delo et al (United States Patent No.: US 6,370,686 B1).

As per claim 1:

Delo discloses:

- a software application ("**A product**" Col 5, line 63) for use with the mobile data acquisition device, the software application being located on a remote computer ("**program modules depicted relative to the personal computer 20, or portions thereof, may be stored in the remote memory storage device**" col. 5, lines 47-49);
- the remote computer transferring the software application from the remote computer to the mobile data acquisition device ("**initiating the installation may constitute the act of executing a remote startup script over a network connection**" col. 6, lines 46-49); and
- the remote computer installing and activating the software application ("**The installer application 201 begins the installation by reading the package file 213 into memory... the installer application 201 reads the package file 213**

and uses the information stored within to determine the installation operations that must be performed for the product” col. 6, lines 52-62) for use by the mobile data acquisition device; the software application being determined by a user (“a user initiates the installation of the product” col. 6, lines 44-45) and replacing a factory default software application (“A product represents a single, entire application program such as the Microsoft Office application program marketed by Microsoft Corporation of Redmond, Wash” col. 5, lines 63-65).

Delo does not explicitly disclose transferring the software application from the remote computer to the mobile hand-held, mobile device.

However, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to recognize that updating application on handheld, mobile device are well known in the field of software updating. Therefore, one would have been motivated to apply Delo’s approach to update software application in handheld, mobile device because it is well known to a person of ordinary skill in the art.

As per claim 2:

Delo further discloses:

- wherein the remote computer enables a first set of applications (**when the product transferred from remote computer to target computer and installed on the target computer, the software product is enabled by the remote computer in order to run on the target**) for the mobile data acquisition device,

the first set of applications being define by a first User Role (**"a dialog box which presents to user with the option of selecting which features of the product to install"** Col 6, lines 63-65, **this means, user select which feature is applicable for user role**).

As per claim 3:

Delo further discloses:

- wherein the remote computer disables the first set of applications (**when installing a new version product, the old product is disable from the target computer**) and enables a second set of applications (**and the new software product is enabled in order to run on the target computer**) for mobile data acquisition device, the second set of applications being defined by a second User Role (**"a dialog box which presents to user with the option of selecting which features of the product to install"** Col 6, lines 63-65, **this means, user select which feature is applicable for the new software product's user role**).

As per claim 4:

Delo further discloses:

- wherein the mobile data acquisition device includes a User Role selection module, an application list module, and an application selection module (**"a dialog box which presents the user with the option of selecting which features of the product to install. The user may be presented with the**

option of selecting a “Word” feature, an “Excel” feature, and a “Proofing Tools” feature. The user may then select which features to install... a feature is a group of components, and the components identify the actual resources to be installed to the computer” Col 6-7 lines 64-67; 1-4).

As per claim 5:

Delo further discloses:

- wherein the User Role selection module displays a list of User Roles for the user (**“a dialog box which presents the user with options of selecting which features of the product to install” Col 6, lines 64-65).**

As per claim 6:

Delo further discloses:

- wherein the application list module maintains a list of available software applications (**“the user may be selected with the option of selecting a “Word” feature, an “Excel” feature,...” Col 6, lines 66-67)** for the mobile data acquisition device.

As per claim 7:

Delo further discloses:

- wherein the application selection module maintains a list of enabled software applications (**“the user may be selected with the option of selecting a**

**“Word” feature, an “Excel” feature,...” Col 6, lines 66-67, the “Word”,
“Excel” and “Proofing Tools” are enabled software applications in order to
install and run on the target computer) for the mobile data acquisition devices.**

As per claim 8:

Delo further discloses:

- wherein the mobile data acquisition device disables a software application no longer needed by the mobile data acquisition device **(It is inherent in Delo’s installation process because in order for the new product to run properly on the target computer, the old version must be disabled).**

As per claim 10:

Delo further disclose:

- wherein the remote computer requests an application activation file from the mobile data acquisition device (see at least col. 11, lines 61-67 **“Published Component Table 245...is transferred to the Installer during the product’s installation”**).

As per claim 11:

Delo further discloses:

- a data acquisition device (**“person computer 20”** Col 5, line 27) for use with the software application;

- a remote computer ("**a remote computer 49**" Col 5, line 29) for transmitting the software application from said remote computer to said data acquisition device ("**initiating the installation may constitute the act of executing a remote startup script over a network connection**" Col 6, lines 46-49); and
- said remote computer installing and activating the software application ("**Once the software product 136, the installation database 139... are introduced to the target computer system 120, the processing unit 121 executes the instructions of the installation program module 137 to install an install-set of the software product 136**" Col 6, lines 22-26) for use by said data acquisition device, said data acquisition device having the capability of disabling a software application of said data acquisition device (**when installing a new version of product, the old version is disabled or removed**).

As per claim 13:

Delo further discloses:

- wherein said remote computer removes invalid applications from an application activation file (**the remote computer indirectly remove old application, like "Word", "Excel" and so forth from the file of the target computer during the installation of new product**).

As per claim 14:

Delo further discloses:

- wherein said data acquisition device acknowledges receipt of the software application from the remote computer (**"Once the installation is initiated, the installer application 201 assumes the control of processing"** Col 6, lines 50-51, **the computer 20 must acknowledge receipt of the software application from the remote computer in order to perform the installation process**).

As per claim 15:

Delo further discloses:

- a first instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for initiating communication between a mobile device and a remote computer (**Note: no patentable weight is giving for intended use**);
- a second instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for requesting the state of the mobile device by the remote computer;
- a third instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for responding to the remote computer by the mobile device with a factory default state message;

- a fourth instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for initiating transfer of a software application from the remote computer to the mobile device; and
- a fifth instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for acknowledging receipt of the software application from the remote computer by the mobile device thereby enabling the software application at the mobile device.

As per claim 16:

Delo further discloses:

- including a sixth instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for changing a status of the mobile device from a "factory default" state to an "operational" state.

As per claim 17:

Delo further discloses:

- including a sixth instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for rebooting the mobile device.

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As per claim 18:

Delo further discloses:

- including a sixth instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for running the software application on the mobile device.

As per claim 19:

Delo further discloses:

- including a sixth instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for sending an application activation file from the mobile device to the remote computer.

As per claim 20:

Delo further discloses:

- including a sixth instruction (**A product must include many instructions; a first instruction, second instruction, third instruction, forth instruction, fifth instruction, sixth instruction, and so forth**) for ceasing communication between the mobile device and the remote computer.

7. Claims 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delo et al. (United States Patent No.: US 6,370,686 B1), in view of (Larsson et al. (United States Patent No.: US 6,226,747).

As per claim 9:

Delo does not explicitly disclose:

- wherein the remote computer maintains an application installation log for determining software application enabled at a give time.

However, Larsson disclose:

- wherein the remote computer maintains an application installation log for determining software application enabled at a give time (see at least claim 8, **"installation history information"**).

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Delo's approach to combine with Larsson's approach. One of ordinary skill in the art would have been motivated to do this modification because it helps to determine if the installation is authorized or not as suggested by Larsson's approach.

As per claim 10:

Delo does not explicitly disclose:

- wherein the remote computer requests an application activation file from the mobile data acquisition device.

However, Larsson discloses:

- wherein the remote computer requests an application activation file from the mobile data acquisition device (see at least claim 8, **"installation history information"** – installation history information is used to determine to install or not install the application).

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Delo's approach to combine with Larsson's approach. One of ordinary skill in the art would have been motivated to do this modification because it helps to determine if the installation is authorized or not as suggested by Larsson's approach.

As per claim 12:

Delo does not explicitly disclose:

- wherein said remote computer initiates transfer of the software application subsequent to said data acquisition device sending an application activation file to said remote computer.

However, Larsson discloses:

- wherein said remote computer initiates transfer of the software application subsequent to said data acquisition device sending an application activation file to said remote computer (see at least claim 8 **"if the installation is authorized, installing the software from the read only storage medium to the permanent read/write storage device of the computer"**).

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Delo's approach to combine with Larsson's approach. One of ordinary skill in the art would have been motivated to do this modification because it helps to determine if the installation is authorized or not as suggested by Larsson's approach.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip H. Nguyen whose telephone number is (571) 270-1070. The examiner can normally be reached on Monday - Thursday 10:00 AM - 3:00 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PN

6/27/2007



WEI ZHEN
SUPERVISORY PATENT EXAMINER